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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,858	12/27/2001	Steven Barritz	P/3704-7	1455

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EXAMINER

ABEL JALIL, NEVEEN

ART UNIT PAPER NUMBER

2165

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,858

Applicant(s)

BARRITZ ET AL.

Examiner

Neveen Abel-Jalil

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/6/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 14-17, 19-25, 27, 29-33, & 35 is/are rejected.
- 7) ☒ Claim(s) 8-13, 18, 26, 28 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

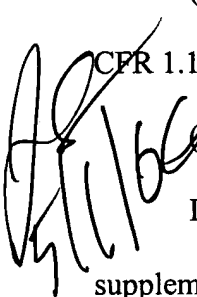
Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. In view of the Appeal Brief filed on 6-February-2006, PROSECUTION IS HEREBY REOPENED. *A new ground of rejection is set forth below.*

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
 (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Status of the claims: claims 1-35 are pending.

Claim Objections

3. Claims 1, 4, 6-8, 14-15, 18, 20-25, 28, 30, and 32-35 are objected to because of the following informalities:

Claims 1, and 30 both recite the intended use “for” performing a functionality hence making never to actually take place and thus not carry any patentable weight. Claims should be amended to replace “for” with “that” or “is” or any firm direct language.

Appropriate correction is required.

Claims 6-8, 14-15, 22-25, introduce “a facility” again although dependent on claims that have previously introduced “a cooperative facility”. Is this a new facility being introduced or a reference to the original “cooperative facility”? Therefore lacking antecedent basis. Appropriate clarification is required.

Claims 18, and 28, recite “the categorization and attribute data” and “the degree of convergence” both lack antecedent basis.

Claim 21 recite “the categorization and attribute data” which lacks antecedent basis.

Claims 4, 20, 23, 25, 30, all recite two different instance of “searchers” one pointing to generic “searchers” the other to either “end searchers” or “data searches”. Are these three difference instances of “searchers” or is it all in reference to one disclosure of “searches”? Clarification is required and claims should be amended to show consistency.

Claim 30’s use of “user” and “data searchers” is confusing and misleading. The Examiner will equate them to one and the same for the purpose of Examination.

Claims 32-34, all recite “the data searcher” which lacks antecedent basis. The previous reference made to data searcher was plural and not singular. Correction is required.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 30 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 30 is not statutory because it merely recite a number of computing steps without producing any tangible result and/or being limited to a practical application (see MPEP 2106 IV.B.2.(b)). Although, the preamble recites “A method **for** searching for data items in a data store” which constitute intended use. The limitations following “**for**” never actually have to take place and therefore do not carry patentable weight hence the searching does not have to happen in a tangible data store. The steps of the method of the body of the claim can be done manually and does not require the use of a computer or hardware. A user can manually access “operate” a computer, print different items, categorize them in physical folders and search them.

The claims should be amended to recite the use of computer to implement the method (i.e. A computer implemented method of searching data items in a data store).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 4, 20, and 30 are rejected under 112 2nd because the phrase “and/or” renders the claim indefinite since its unclear why the applicant is making a distinction if the intention is all along to include both instances of the limitaion or its alternative.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-7, 14-17, 19-27, 30, 32, and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Schuter (U.S. Patent No. 6,675,161 B1).

As to claim 1, Schuter discloses an interactive system for enhancing the searchability of data, the system comprising:

a categorization system that associates search terms defining categories or attributes with items to be found (See column 6, lines 61-67);

a communication system for communicating with the categorization system and with a store of information from which information is to be selected based on the search terms (See column 5, lines 17-34); and

a cooperative facility associated with the categorization system that enables users to interactively and at least partially automatically, modify or supplement the search terms initially

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assigned to the items to be found by the categorization system (See column 8, lines 14-30).

As to claim 2, Schuter discloses in which the store of information is accessible via the Internet (See Figure 1A, 104, shows “network” deemed to read on “Internet”).

As to claims 3, and 19, Schuter discloses in which the categorization system enables assigning search terms that are hierarchical and enables assigning search terms that are based on items to be found (See column 7, lines 8-23).

As to claims 4, and 20, Schuter discloses in which the cooperative facility is accessible to the users and the users comprise listers of information and/or end searchers which search for the information (See column 14, lines 25-30, also see column 14, lines 62-65).

As to claims 5, and 21, Schuter discloses in which the search terms comprise categories of items to be found that are arranged hierarchically and attributes of items defined descriptively and the categorization and attribute information is stored in a categorization and attribute database (See column 10, lines 65-67, also see Figure 3A, shows hierarchical arrangement).

As to claims 6, and 22, Schuter discloses including a facility that dynamically enables a lister of items in the store of information to use existing categorization and attribute data and to add additional categories via the cooperative facility (See column 14, lines 25-30, also see

column 14, lines 62-65).

As to claims 7, and 23, Schuter discloses including a facility that dynamically enables a searcher of items in the store of information to use existing categorization and attribute data and to add additional attributes via the cooperative facility (See column 10, lines 65-67, also see column 14, lines 20-30).

As to claims 14, and 24, Schuter discloses including a facility that groups together those attributes that are related to one another (See column 8, lines 22-37, also see column 9, lines 420, wherein “class of content” is stored under similar attributes).

As to claims 15, and 25, Schuter discloses including a facility that enable searchers to specify attribute selections by entry of a plurality of terms connected by Boolean expressions (See column 19, lines 20-31).

As to claims 16, and 26, Schuter discloses wherein the cooperative facility includes a secondary facility that imposes limitations on types of attributes permitted to be added to the database holding the attributes (See column 9, lines 6-20).

As to claims 17, and 27, Schuter discloses in which the cooperative facility includes a subsidiary facility that removes redundancies in categorization and attribute search terms (See

column 16, lines 10-20, wherein “duplicate and redundancies” are deemed to be removed as a result of “matching”).

As to claim 30, Schuter discloses a method for searching for data items in a data store, the method comprising the steps of:

operating a computer-based communication system that effects communications between a plurality of data searchers and the data store containing the data items (See Figure 1B, shows computer based communication network);

operating a search engine that enables the data searchers to enter initial key words describing data items to be found (See column 5, lines 17-34);

receiving selected data items that are responsive to the initial key words in a given order of items, organized into successive viewable pages (See column 9, lines 62-67, wherein “initial keywords” reads on “category” headings, and wherein “viewable pages” reads on “window” having different tabs leading to successive pages);

initiating a manual review of the received selected data items (See column 10, lines 15-24); and

operating an automatic clustering tool that is responsive to the items manually perused by the data searcher, including items not reviewed by the data searcher, the automatic clustering tool responding to the user's action by interactively creating categorization criteria by which at least a portion of the received selected data items are reordered or filtered **for** being viewed by the data searcher, and/or by which a further search is performed and results are based thereon (See

column 7, lines 15-23, also see column 10, lines 65-67, and see column 14, lines 24-30).

As to claim 32, Schuter discloses in which the automatic clustering tool constantly revises the categorization criteria in response to continuous reviewing of the selected data items by the data searcher (See column 11, lines 49-64, and see column 12, lines 3-11, wherein “constantly revises” is deemed to be “automatic clustering” function to update).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 31, 33, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuter (U.S. Patent No. 6,675,161 B1) in view of Chen et al. (U.S. Patent No. 6,728,752 B1).

Claim 29, Schuter teaches in combination with an automatic clustering facility “that minimizes the need of a search engine user to successively refine search terms in a manual fashion” (is intended use recitation which does not carry any patentable weight).

Schuter does not teach by monitoring which particular result-items a user has historically chosen to visit.

Chen et al. teaches by monitoring which particular result-items a user has historically chosen to visit (See Chen et al. column 3, lines 30-33, prior art, also see Chen et al. column 6, lines 25-35).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to automatically cluster by monitoring which particular result-items a user has historically chosen to visit because it allows for minimum classification error and maximizing mutual information access (See Chen et al. column 5, lines 26-31).

As to claim 31, Schuter does not teach in which the automatic clustering tool responds to a searcher's data item perusal in a prior session.

Chen et al. teaches in which the automatic clustering tool responds to a searcher's data item perusal in a prior session (See Chen et al. column 3, lines 30-33, prior art, also see Chen et al. column 6, lines 25-35).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to the automatic clustering tool responds to a searcher's data item perusal in a prior session because it allows for minimum classification error and maximizing mutual information access (See Chen et al. column 5, lines 26-31).

As to claim 33, Schuter does not teach in which the automatic clustering tool is responsive to a given data searcher's reviewing activity over a period of time.

Chen et al. teaches in which the automatic clustering tool is responsive to a given data searcher's reviewing activity over a period of time (See Chen et al. column 18, lines 17-25).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to the automatic clustering tool is responsive to a given data searcher's reviewing activity over a period of time because it allows for multiple feature use and collection of disparate type of information for better information classification (See Chen et al. column 4, lines 21-29).

As to claim 35, Schuter does not teach including creating search context for a search session and saving search context from a prior search session to a subsequent search session.

Chen et al. teaches in which the automatic clustering tool is responsive to a given data searcher's reviewing activity over a period of time (See Chen et al. column 3, lines 10-16, prior art, also see Chen et al. column 6, lines 60-66, and see Chen et al. column 25, lines 53-65).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to it the automatic clustering tool is responsive to a given data searcher's reviewing activity over a period of time because it provides users fast interactive access for useful documents (See Chen et al. column 8, lines 16-29).

Allowable Subject Matter

12. Claims 8-13, 18, 26, 28, and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

13. Applicant's arguments with respect to claims 1-35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Heckerman et al. (U.S. Patent No. 2004/0181554 A1) teaches visualizing clusters of data and hierarchical cluster classification.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

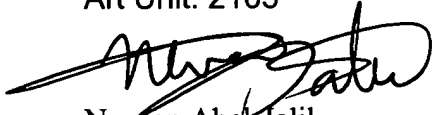
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'Niveen Abel-Jalil', written over a horizontal line.

Niveen Abel-Jalil

April 30, 2006